

Indiana Department of Labor

Indiana Occupational Safety and Health Administration
402 West Washington Street, Room W195
Indianapolis, Indiana 46204
Phone: (317) 232-1979 FAX: (317) 233-3790

Safety Order and Notification of Penalty

To:
Azteca Milling LP
and its successors
15700 Highway 41 North
Evansville, IN 47725

Inspection Number: 1669457
CSHO ID: R6100
Optional Report No.: UNKNOWN
Inspection Date(s): 05/11/2023 - 06/12/2023
Issuance Date: 06/22/2023

Inspection Site:
15700 Highway 41 North
Evansville, IN 47725

The violation(s) described in this Safety Order and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

An inspection of your workplace of employment has revealed conditions which we believe do not comply with the provisions of the Indiana Occupational Safety and Health Act (Indiana Code Chapter 22-8-1.1) or the standards or rules adopted thereunder. Accordingly, enclosed please find safety order(s) and notification(s) of penalty describing such violation(s) with references to applicable standards, rules or provisions of the statute and stating the amount of any penalty(ies).

Informal Conference – Please be advised that it may be possible to informally settle any potential dispute without initiating the more elaborate proceedings brought on by a petition for review. Prior to filing a petition for review, you may request an informal conference concerning any results of the inspection (safety orders, penalties, abatement dates, etc.) by contacting the Indiana Department of Labor/IOSHA, preferably by telephone, in a prompt manner. Please be advised that a request for an informal conference cannot extend the fifteen working day period for filing a petition for review. Informal conferences frequently resolve any possible disputes, and therefore you are urged to take advantage of this opportunity. Because of the limited time period and in order to facilitate scheduling, any requests for an informal conference should be made promptly upon your receipt of the safety order(s) and notification(s) of penalty.

Right to Contest –

order(s) and penalty(ies) shall be deemed final orders of the Board of Safety Review and not subject to review by any court or agency. The issuance of a safety order does not constitute a finding that a violation has occurred unless no petition for review is filed, or if a petition for review (contest) is filed, it must contain a statement of its basis and should reference the above inspection number. Upon receipt of your petition for review, we will affirm, amend or dismiss the safety order(s) and notification(s) of penalty. If we affirm, your petition for review will be granted (unless it was not timely) and the dispute will be certified by the Board of Safety Review for further proceedings. The Board of Safety Review is an independent board appointed by the governor with authority to conduct legal proceedings leading up to and including administrative hearings or assign an Administrative Law Judge (ALJ) to conduct the same, and to issue decisions concerning disputed safety orders and notifications of penalties. If we amend the safety order(s) or notification(s) of penalty, your petition for review shall be deemed moot. However, you will then be given an opportunity to file a petition for review concerning the amended safety order(s) and notification(s) of penalty.

Please be advised that an employee or representative of employees may file a petition for review to contest the reasonableness of the time stated in the safety order(s) for the abatement of any violation.

Posting - Upon receipt of any safety order(s) you are required to post such safety order(s), or a copy thereof, unedited, at or near each place an alleged violation referred to in the safety order(s) occurred. However, if your operations are such that it is not practicable to post the safety order(s) at or near each place of alleged violation, such safety order(s) shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, if you are engaged in activities which are physically dispersed, the safety order(s) may be posted at the location from which the employees operate to carry out their activities. You must take steps to ensure that the safety order is not altered, defaced, or covered by other material. Posting shall be until the violation is abated, or for three working days, whichever is longer.

Penalties - Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Abatement does not constitute payment of penalties.

Abatement - The conditions cited in the safety order(s) must be corrected (abated) on or before the date shown for each item on the safety order(s) and notification(s) of penalty unless:

(1) You file a petition for review concerning the violation, in which case the full abatement period shall commence from the issuance of a final decision by the Board of Safety Review or the courts which requires compliance with the safety order; or

(2) The abatement period is extended by the granting of a petition for modification of abatement date.

PMAs - The petition for modification of abatement date is a manner in which you may seek additional time to correct (abate) a violation without having to file a petition for review concerning the safety order, or after the expiration of the time period to file such a petition for review when it becomes apparent that you need extra time to abate the violation. A petition for modification of abatement date shall be in writing and shall include the following information:

(1) All steps you have taken, and the dates of such actions, in an effort to achieve compliance during the prescribed abatement period.

(2) The specific additional abatement time necessary in order to achieve compliance.

(3) The reasons such additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.

(4) All available interim steps being taken to safeguard employees against the cited hazard during the abatement period.

(5) A certification that a copy of the petition has been posted, and if appropriate, served on the authorized representative of affected employees, and a certification of the date upon which such posting and service was made.

A petition for modification of abatement date shall be filed with the Indiana Department of Labor/IOSHA no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay. A copy of such petition shall be posted in a conspicuous place where all affected employees will have notice thereof or near such location where the violation occurred. The petition shall remain posted until the time period for the filing of a petition for review of the Commissioner's granting or denying the petition expires. Where affected employees are represented by an authorized representative, said representative shall be served a copy of such petition.

Notification of Corrective Action - Correction of the alleged violations which have an abatement period of thirty (30) days or less should be reported in writing to us promptly upon correction. A "Letter of Abatement" form and an "Abatement Photographs" worksheet are enclosed for your assistance in providing adequate documentation of abatement. Reports of corrections should show specific corrective action on each alleged violation and the date of such action. On alleged violations with abatement periods of more than thirty (30) days, a written progress report should be submitted, detailing what has been done, what remains to be done, and the time needed to fully abate each such violation. When the alleged violation is fully abated, we should be so advised. Timely correction of an alleged violation does not affect the initial proposed penalty.

Followup Inspections - Please be advised that a followup inspection may be made for the purpose of ascertaining that you have posted the safety order(s) and corrected the alleged violations. Failure to correct an alleged violation may result in additional penalties for each day that the violation has not been corrected.

Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the Indiana Department of Labor/IOSHA at the address shown above.

Notice to Employees - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the Indiana Department of Labor/IOSHA at the address shown above within fifteen (15) working days (excluding weekends and State holidays) or receipt by the employer of this safety

order and penalty.

If you wish additional information, you may direct such requests to us at the address or telephone number stated above.

Indiana Department of Labor

Indiana Occupational Safety and Health Administration
402 West Washington Street, Room W195
Indianapolis, Indiana 46204
Phone: (317) 232-1979 FAX: (317) 233-3790



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the Safety Order(s) issued on 06/22/2023.

The Informal Conference will be held:

Date: _____

Time: _____

_____ **Virtually/Telephonically via Microsoft Teams**

Call-in Number: _____

Conference ID: _____

_____ **In-person at the Indiana Department of Labor, located at the following address:**

402 West Washington Street, Room W195
Indianapolis, Indiana 46204

Meeting/Conference Room: _____

Employees and/or representatives of employees have a right to attend an informal conference.

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1669457
CSHO ID: R6100
Optional Report No.: UNKNOWN
Inspection Date(s): 05/11/2023 - 06/12/2023
Issuance Date: 06/22/2023



Safety Order and Notification of Penalty

Company Name: Azteca Milling LP
Inspection Site: 15700 Highway 41 North, Evansville, IN 47725

Safety Order 1 Item 1 b Type of Violation: **Serious**

29 CFR 1910.23(c)(11):(11) Where portable ladders were used to gain access to an upper landing surface the ladder side rails did not extend at least 3 feet (0.9 m) above the upper landing surface:

Azteca Milling LP, 15700 HWY 41 N, Evansville, Indiana, Packing Department Line No. 5 Filler No. 4, On or about May 10, 2023, the employer did not assure the ladder used to access the machine was placed at least 3 foot above the top landing surface, nor was a grab rail provided.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	August 08, 2023
Proposed Penalty:	\$0.00

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Safety Order and Notification of Penalty

Company Name: Azteca Milling LP
Inspection Site: 15700 Highway 41 North, Evansville, IN 47725

Safety Order 1 Item 2 Type of Violation: **Serious**

29 CFR 1910.28(b)(1)(i): (1) Each employee on a walking/working surface with an unprotected side or edge which was 4 feet or more above a lower level was not protected from falling by the use of guardrail systems, safety net systems, or a personal fall arrest system:

Azteca Milling LP, 15700 HWY 41 N, Evansville, Indiana, Packing Department Line No. 5 Filler No. 4, On or about May 10, 2023, an employee(s) engaged in maintenance activities at a height of approximately 7 feet (was/were) not protected from falls by any means.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	August 08, 2023
Proposed Penalty:	\$4,000.00

Indiana Department of Labor
Occupational Safety and Health Administration

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Safety Order and Notification of Penalty

Company Name: Azteca Milling LP
Inspection Site: 15700 Highway 41 North, Evansville, IN 47725

Safety Order 1 Item 3 Type of Violation: **Serious**

29 CFR 1910.147(c)(6)(i)(C): Where lockout is used for energy control, the periodic inspection shall include a review, between the inspector and each authorized employee, of that employee's responsibilities under the energy control procedure being inspected:

Azteca Milling LP, 15700 HWY 41 N, Evansville, Indiana, Packing Department Line No. 5 Filler No. 4, On or about May 10, 2023, the employer did not perform periodic audits with authorized personnel.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	August 08, 2023
Proposed Penalty:	\$2,000.00

Indiana Department of Labor
Occupational Safety and Health Administration

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Safety Order 1 Item 4 Type of Violation: **Serious**

29 CFR 1910.147(d): The established procedure for the application of energy control (the lockout or tagout procedures) did not cover the actions listed in and was not done in sequence as required by 29 CFR 1910.147 (d)(1)-(6):

Jobsite - 15700 US HWY 41 N, Evansville, Indiana 47725 - On or about May 10, 2023, Packaging Department - An employee was exposed to a caught by hazard when make repairs to an auger on line #5 Filler #4 in the Packing Department. The energy control application steps to perform the repair were not implemented per 1910.147(d) requirements. As a result, the following applicable energy control elements were not followed to include:

Prepare for shutdown [(d)(1)] - ensure authorized employee has knowledge of the type and magnitude of the energy, the hazards of the energy to be controlled, and the method or means to control the energy:

Shutdown the machine or equipment [(d)(2)] - the machine or equipment shall be turned off or shut down using the procedures established for the machine or equipment:

Machine isolation [(d)(3)] - physically locate and operate all energy isolating devices that are needed to control the energy to the machine or equipment in such a manner as to isolate the machine or equipment from the energy sources(s):

LOTO device application [(d)(4)(i)] - affix a lockout or tagout device to each energy isolating device:

Stored energy [(d)(5)(i)] - all potentially hazardous or stored residual energy shall be relieved, disconnected, restrained, or otherwise rendered safe:

Verification of isolation [(d)(6)] - Prior to starting work on machines or equipment that have been locked out or tagged out, the authorized employee shall verify that isolation and deenergization of the machine or equipment have been accomplished:

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

August 08, 2023

Proposed Penalty:

\$7,000.00



INVOICE/DEBT COLLECTION NOTICE

Company Name: Azteca Milling LP
Inspection Site: 15700 Highway 41 North, Evansville, IN 47725
Issuance Date: 06/22/2023

Summary of Penalties for Inspection Number: 1669457

Safety Order 1 Item 1a, Serious	\$4,000.00
Safety Order 1 Item 1b, Serious	\$0.00
Safety Order 1 Item 2, Serious	\$4,000.00
Safety Order 1 Item 3, Serious	\$2,000.00
Safety Order 1 Item 4, Serious	\$7,000.00
Safety Order 1 Item 5, Serious	\$2,000.00


TOTAL PROPOSED PENALTIES: \$19,000.00

Penalties are due within fifteen (15) working days of receipt of this notification unless requested. Make your check or money order payable to: "Indiana DOL/IOSHA." Please indicate IOSHA's Inspection Number (indicated above) on the remittance. You may also make a payment online at <https://payingov.com/dol/>. Your account number is your inspection number.

IOSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Corrective action taken by you for each alleged violation should be submitted to this office on or about the abatement dates indicated on the Safety Order and Notification of Penalty.

A worksheet has been provided to assist in providing the required abatement information. A completed copy of this worksheet should be posted at the worksite with safety orders.


Jeremy Galloway

6/22/2023

Date

IOSHA Director
JG:tj